

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

LISA WHITEWING,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

CASE NO.

COMPLAINT

Plaintiff states:

1. That Plaintiff, Lisa Whitewing, is a resident of Winnebago, Thurston County, Nebraska.

2. Jurisdiction in this matter is based upon 28 U.S.C. §1346(b) and 28 U.S.C. §§2671 – 2678, commonly referred to as the Federal Tort Claims Act.

3. Venue is appropriate in the District of Nebraska because a substantial part of the events complained of occurred in this District and because the Defendant resides in this District.

4. Plaintiff presented her claim on January 28, 2019, to the Defendant by mailing Standard Form 95 Claim for Damage, Injury or Death by certified mail to 1849 C Street N.W., Washington, D.C. 20240. Said claim was received by the Defendant on February 4, 2019.

5. Plaintiff also presented her claim on April 25, 2019, to the Defendant by mailing Standard Form 95 Claim for Damage, Injury or Death by Federal Express to 5600 Fishers Lane, Rockville, Maryland 20857. Said claim was received on April 26, 2019.

6. Plaintiff's claim was acknowledged by the Department of Health and Human Services, Office of General Counsel, General Law Division-Claims Office, 330 C. Street, S.W., Switzer Building, Suite 2100, Washington, D.C. 20201.

7. The United States of America, through the Department of Health and Human Services, assigned an individual to investigate Plaintiff's claim. Despite this, the Defendant neither allowed nor denied Plaintiff's claim within six (6) months of receipt of the claim. Plaintiff therefore withdrew her claim and is therefore authorized to file this action.

8. Between April 17, 2017 and June 2, 2017, Plaintiff was treated at the podiatry clinic at the Omaha Winnebago Hospital, 225 S. Bluff St., Winnebago, Nebraska.

9. Between April 17, 2017 and June 2, 2017, a podiatry instrument was not properly sterilized between patients and Plaintiff was exposed to infection.

10. Plaintiff was informed of the information contained in paragraph 9 above, in writing, by Kevin Stiffarm, acting CEO of the Omaha/Winnebago Hospital and was advised to undergo testing for: Hepatitis B virus, Hepatitis C virus, and human immunodeficiency virus (HIV).

11. Plaintiff did in fact undergo testing as recommended and was advised that she had contracted Hepatitis C.

12. That the agents and/or representatives of the Defendant United States of America who were attending to the care and treatment of Plaintiff were negligent in each of the following respects:

- a. In failing to properly train its staff of the proper procedures with respect to sterilization of medical equipment;
- b. In failing to properly sterilize medical equipment;
- c. In failing to timely identify, inform, and treat patients who had been exposed to unsterilized medical equipment.

13. As a direct and proximate result of the negligence of the agents and/or representatives of Defendant United States of America, Plaintiff has sustained the following damages:

- a. Contraction of Hepatitis C virus;
- b. Physical and mental pain and suffering in the past and it is reasonably certain that Plaintiff will sustain additional physical and mental pain and suffering in the future;
- c. Medical bills in the past and it is reasonably certain that Plaintiff will incur additional medical bills in the future;
- d. Permanent injury; and
- e. Permanent disability.

14. That at the time of this incident, Plaintiff was 58 years of age and had a life expectancy of 26.28 years.

WHEREFORE the Plaintiff prays for judgment against Defendant United States of America as follows:

- a. For special damages and general damages in the amount of \$2,250,000.00, and the costs of this action and
- b. For other damages that are deemed reasonable and proper.

Dated this 3rd day of April, 2020.

LISA WHITEWING, Plaintiff,

By: /s/ Mandy L. Strigenz

Mandy L. Strigenz, #20208

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